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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/596,862	06/27/2006	Staffan Soderlund	464.1030USN	1474
33369 7590 05/23/2008 FASTH LAW OFFICES (ROLF FASTH) 26 PINECREST PLAZA, SUITE 2 SOUTHERN PINES, NC 28387-4301				
EXAMINER				
LIM, SENG HENG				
ART UNIT		PAPER NUMBER		
3714				
MAIL DATE		DELIVERY MODE		
05/23/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary**Application No.**

10/596,862

Applicant(s)

SODERLUND, STAFFAN

Examiner

SENG H. LIM

Art Unit

3714

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-7 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SF/ICE)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Information Disclosure Statement

The information disclosure statement filed 9/21/2006 fails to comply with 37 CFR 1.97(c) because it lacks a statement as specified in 37 CFR 1.97(e). It has been placed in the application file, but the information referred to therein has not been considered.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brotz (US 5,213,338) in view of Park et al (WO 01/07128 A1).

Brotz discloses a method of playing a game for two players (Abstract) comprising providing the two players each with a sensor (Fig. 2) for measuring brain wave intensity (4:6-35). The playing area is rectangular and the two players are seated opposite each other at the short sides of the playing area trying to move an illuminated square from their own side of the playing area to the other side (7:9-22). Whichever players move the square to his side of the playing area first wins.

Brotz does not disclose moving the square with respect to the brain wave frequencies of the players; however, Park et al disclose a method for playing a game in which the player is provided with a sensor for measuring brain waves and the players affect the game by changing the frequencies of their brain waves (i.e. theta, alpha, and beta wave frequencies) (Page 3, lines 2-8). Brotz and Park et al are analogous art because they both disclose controlling a game using player's brain waves. At the time of invention a person of ordinary skill in the art would have found it obvious to try to use

brain wave frequencies instead of brain wave intensity to move the unit on the playing area, since no unexpected technical effect or result has been achieved by using frequency instead of intensity and it appears that the invention would perform equally well with using brain wave intensity instead of frequency.

Brotz and Park et al discloses the claimed invention except for designating which range of frequency moves the ball towards a designated direction. It would have been an obvious matter of design choice to designate which range of frequency moves the ball towards a designated direction, since applicant has not disclosed that doing so solves any stated problem or is for any particular purpose other than moving the ball's direction.

Examiner's Note: Examiner has cited particular paragraphs, figures, columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Please see attached USPTO form PTO-892.

Correspondence

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Seng H. Lim whose telephone number is 571-270-3301. The examiner can normally be reached on 8:30-6:00, Monday-Friday, alternate Fridays off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. H. L./

Examiner, Art Unit 3714

May 9, 2008

/XUAN M. THAI/

Supervisory Patent Examiner, Art Unit 3714